

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

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Amendment of the Commission's
Regulatory Policies to Allow Non-
U.S. Licensed Space Stations to
Provide Domestic and International
Satellite Service in the United States

IB Docket No. 96-111

and

Amendment to Section 25.131 of the
Commission's Rules and Regulations to
Eliminate the Licensing Requirement
for Certain International Receive-Only
Earth Stations

CC Docket No. 93-23 RM-7931

and

COMMUNICATIONS SATELLITE
CORPORATION Request for Waiver of
Section 25.131(j)(1) of the Commission's
Rules As It Applies to Services Provided
Via the INTELSAT K Satellite

File No. ISP-92-007

To: The Commission

**COMMENTS OF SKYBRIDGE L.L.C. ON PETITIONS
FOR RECONSIDERATION AND CLARIFICATION**

Skybridge L.L.C. ("Skybridge"), by its attorneys, hereby submits these
comments on the petitions for reconsideration and clarification of the Commission's
Report and Order^{1/} in the above-captioned proceeding.

Skybridge filed an application with the Commission in February 1997
for authority to launch and operate the "SkyBridge System," a global network of
nongeostationary orbit communications satellites operating at Ku-band, designed to

^{1/} FCC 97-399, released November 26, 1997.

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provide broadband services in the Fixed-Satellite Service.^{2/} The rules set out in the Report and Order are not directly applicable to Skybridge, a U.S. entity that will operate pursuant to U.S. licenses. Nonetheless, as noted in comments filed August 21, 1997 in the above-captioned proceeding, because the SkyBridge system is global in scope, SkyBridge plans to provide satellite services in essentially all WTO member countries. Therefore, the United States' implementation of the WTO Basic Telecommunications Agreement (referred to as the "Group on Basic Telecommunications" or "GBT") may directly affect the ease with which SkyBridge will be able to obtain access to other WTO member countries' markets.

In this regard, Skybridge wishes to underscore two points made by ICO Global Communications ("ICO") in its Petition for Clarification and Reconsideration. First, the Commission should not require satellite systems that are licensed by WTO member countries ("Non-U.S. Satellite Systems") to undergo a separate analysis of their financial, legal or technical qualifications to receive a license to serve the United States, unless clear evidence indicates that the regulatory requirements of the foreign licensing authority are materially deficient as compared to the Commission's. Second, the Commission should clarify that, in licensing Non-U.S. Satellite Systems to provide service in the United States, it will not impose technical requirements for frequency coordination in excess of those required by the ITU, save for those cases in

^{2/} See File No. 48-SAT-P/LA-97, filed February 28, 1997. In December 1997, a SkyBridge affiliate filed an application for a similar system that would operate at Ka-band.

which the United States has taken an exception to the relevant ITU standard or there otherwise exists a distinction between the relevant U.S. and ITU regulations.

I. The Commission Should Not Impose Redundant Licensing Requirements on Non-U.S. Satellite Systems

Skybridge agrees with ICO that the Commission should reconsider its decision to impose redundant licensing requirements on Non-U.S. Satellite Systems. While Skybridge supports with the Commission's goal of ensuring that valuable orbital slots are not licensed to companies that are not legally, financially or technically able to use them,^{3/} it believes that requiring Non-U.S. Satellite Systems to submit information on their legal, financial and technical qualifications would generally be redundant, and would lead other WTO member countries to adopt the same duplicative procedure.

The Commission concluded that, "when considering a request for authority to use a non-U.S. space station to serve the U.S. market, we must apply the same qualification criteria with respect to the foreign space station as we do for a U.S. licensed space station."^{4/} This policy requires all Non-U.S. Satellite Systems to undergo a full Commission review of their financial, legal and technical qualifications to ensure that there is not "unrestricted entry by foreign-licensed satellite systems [that] would vitiate our orbit efficiency policies."^{5/}

^{3/} Report and Order ¶ 152.

^{4/} Id. at ¶ 159

^{5/} Id.

As ICO notes in its Petition for Reconsideration and Clarification, many other WTO member countries have strict financial, legal and technical requirements that companies must meet to receive a space-station license.^{6/} Many Non-U.S. Satellite Systems moreover, have already been successfully launched. Once a satellite system has been deployed, it makes little sense for the Commission to expend its resources to analyze whether the entity has the financial ability to deploy its system. Moreover, if a Non-U.S. Satellite System has been operating in other countries without causing technical difficulties, there is little reason to expect it will cause such difficulties in the United States.^{7/} In light of these factors, the Commission should employ a strong presumption that WTO member licensing requirements are comparable to the Commission's, unless clear evidence to the contrary is provided.^{8/}

Even where the Commission concludes that the standards under which a Non-U.S. Satellite System was licensed are not comparable to the Commission's in certain respects, it is still not necessary to require the Non-U.S. Satellite System to undergo a full Commission review of its financial, legal and technical qualifications. In such a case, the Non-U.S. Satellite System should be subjected only to regulatory scrutiny for those aspects of the foreign licensing regime that were found to be

^{6/} ICO Petition at 3.

^{7/} To the extent there is a concern about technical qualifications specific to the United States, they can be addressed in the earth-station licensing process.

^{8/} Most countries that have licensed satellite systems have an interest in ensuring that valuable orbital slots are not provided to entities that are incapable of fully exploiting them. It is, therefore, unreasonable to presume, ab initio, that other countries' licensing standards are inferior to the Commission's.

materially deficient as compared to the Commission's. For example, if a foreign country's technical requirements are not comparable to the Commission's,^{9/} but its requirements regarding legal or financial qualifications are, it would be necessary only to review information regarding the system's technical qualifications, but not its legal or financial qualifications.

By accepting foreign licensing requirements as comparable (absent clear evidence to the contrary), the Commission would reduce the regulatory burden imposed on Non-U.S. Satellite Systems seeking access to the U.S. market, without endangering the FCC's orbital and spectrum efficiency policies. In turn, U.S. satellite systems like Skybridge would be less likely to face unnecessary and burdensome regulatory requirements in other markets.

II. The Commission Should Clarify That It Will Not Require Frequency Coordination Beyond What is Required by the ITU

Skybridge also agrees with ICO that the Commission should clarify that Non-U.S. Satellite Systems will not be required to undergo duplicative frequency coordination.^{10/} As ICO explains, the ITU coordination process should be adequate to resolve any legitimate issues involving Non-U.S. Satellite Systems and U.S. satellite or terrestrial radio systems. Skybridge joins ICO in requesting that the Commission clarify that it will not require Non-U.S. Satellite Systems to engage in a duplicative coordination process when they apply for a license to serve the U.S. market.^{11/}

^{9/} See Report and Order at ¶ 156.

^{10/} ICO Petition at 5.

^{11/} As noted supra, an exception to this deference to prior ITU coordination would
(continued...)

As noted above, Skybridge expects to provide service in multiple WTO countries, and is concerned that any duplicative regulatory requirements imposed by the Commission will be imposed by other WTO member countries on U.S.-licensed satellite systems seeking access to foreign markets. Such proceedings are expensive and time-consuming, and provide a mechanism that domestic service providers could exploit to exclude U.S. competitors.

CONCLUSION

As Skybridge stated in comments it filed in August 1997, U.S. satellite systems are likely to receive treatment from other WTO member countries which mirrors that accorded by the United States to those foreign states' satellite systems. To the extent that the Commission imposes duplicative and unnecessary regulatory requirements on Non-U.S. Satellite Systems seeking to provide service in the U.S. market, U.S. satellite systems are likely to be subjected to the same duplicative requirements in foreign markets. Such a policy is directly contrary to the

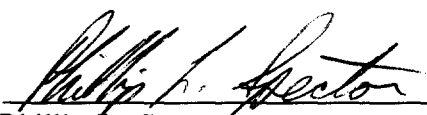
^{11/} (...continued)

be cases in which existing FCC regulations were inconsistent with the ITU regulations, e.g., in cases in which the United States has properly taken an exception to an allocation or technical standard due to special domestic considerations.

goal of the GBT of increasing market access for, and lowering regulatory barriers to, basic telecommunications services worldwide.

Respectfully submitted,

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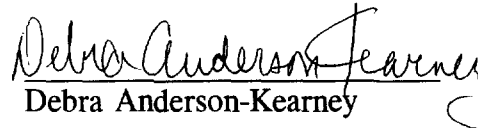
February 17, 1998

CERTIFICATE OF SERVICE

I, Debra Anderson-Kearney, certify that the foregoing Comments of Skybridge L.L.C. on Petitions for Reconsideration and Clarification were served by first class mail postage prepaid, on February 17, 1998 on the following:

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